



JAMES M. KUBOVIK
COUNTY ATTORNEY
BRAZOS COUNTY, TEXAS

TELEPHONE
409/361-4300

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GOVERNMENTAL INQUIRY
UNIT

300 E. 26th
SUITE #325
BRYAN, TEXAS 77803

Friday, November 14, 1997

RQ-1039
FILE # ML-39937-97
I.D. # 39937

Honorable Dan Morales
Attorney General of Texas
c/o Sarah J. Shirley
Chair, Opinions Committee
P.O. Box 12548
Austin, Texas 78711

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Opinion Committee

Dear General Morales,

I have two questions regarding the interpretation of a provision of the Tax Code and I am in hopes that your property tax division will give me the benefit of their thoughts on the matter. The questions involve Section 23.121, 23.122 which pertains to special inventory for motor vehicle dealers and section 6.24 which deals with Interlocal Contract Agreements.

Specifically, the first question is: can a county tax assessor-collector delegate his/her authority as prescribed in section 23.122, therefore allowing a commissioner's court to contract under section 6.24(h), Interlocal Agreement, with another taxing unit or appraisal district to collect special inventory tax (VIT).

Brief

Section 23.121, Tax Code, defines "Collector" as meaning *the county tax assessor-collector* in the county in which the dealer's motor vehicle is located. Section 23.122 defines "Collector" as having the same meaning given in section 23.121. Section 23.122 (c) requires the collector to escrow the VIT in the county depository.

If the answer to the first question is "yes", then I would also like your opinion on another question: if another taxing unit or appraisal district collects the VIT, does the interest earned from the escrow account go to the county assessor-collector as defined in Tax Code 23.122(c) and does the fines collected for failure to file a required inventory statement go to the county general fund as defined in Section 23.122(p).

Brief:

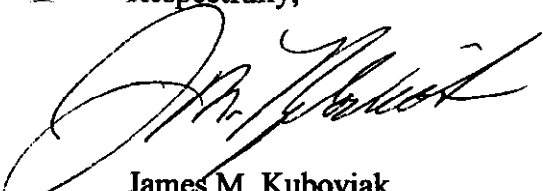
Attorney General Opinion DM-398, issued June 13, 1996, held that the "*interest*" described in Section 23.122(c) and "*penalties*" in section 23.122(p) were the "**sole property of the collector**" and **could be used by no other entity** and the commissioner's court could not reduce or otherwise affect general appropriations to the assessor. *Fines* were to be deposited into the *county general fund*.

It appears to me that the county tax assessor-collector is the only one allowed to collect the VIT money from automobile dealers and escrow said money in the county depository. Had the Legislature intended otherwise, they would not have defined "collector" as *the county assessor* in the county where the vehicle dealer was located, but would have said *the county assessor or designated agent of the county assessor in the county that the vehicle is located*. It appears that the legislature did not intend to supplant the county assessor or they would have so indicated.

I think your opinion would be most helpful to all of us who are involved in tax collections. I look forward to a prompt reply concerning this matter.

Thank you for your assistance. Please contact me at any time if I can provide additional information on this important issue.

Respectfully,

A handwritten signature in black ink, appearing to read 'J. M. Kuboviak', written in a cursive style.

James M. Kuboviak
County Attorney
Brazos County
300 E. 26th Street
Bryan, Texas 77803